

## RECORD OF COMMUNICATION

February 7, 2019

Summary of Call with Powertech to discuss new time line for issuing the updated draft permits after the furlough added delay to our timeline.

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### Summary of Call:

Powertech requested a call with the EPA in order to receive an update on the EPA's timeline for issuing the updated draft permits after the delay caused by the government furlough. The original time frame the EPA had proposed was to issue draft permits the end of May 2019. Now the EPA anticipates issuing draft permits in late August 2019.

Powertech asked why a furlough lasting 6 weeks resulted in a delay of 3 months. EPA staff explained that when they anticipated issuing updated draft permits in May, it was two permit documents and two fact sheets the EPA expected to issue for public review. Since that time, the Office of Region Council informed the UIC Program that there is regulatory authority to include mitigation measures in UIC permits to comply with the Endangered Species Act and a National Historic Preservation Act. In order to include mitigation measures to comply with the ESA, EPA staff would need to complete a Biological Assessment and consultation with the US Fish & Wildlife Service. Although development of the Biological Assessment is underway, there is still more work to do. Another document that will be issued for public review is an updated Environmental Justice (EJ) Analysis. The EPA decided, based on comments received during the public comment periods, that the EJ document should be updated to:

- 1) Include historic information on Treaties affecting the Black Hills in order to support additional Tribal Consultation on Treaty Rights,
- 2) Include analysis of the Black Hills as a sacred site and how historic environmental impacts has affected the spiritual integrity of the Black Hills and the resulting impacts on the wellbeing of Tribes with historic interest in the Black Hills.